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Admitted in DC, MD and VA

July 26, 2021

VIA PACER

The Honorable Theodore D. Chuang
United States District Court, District of Maryland
6500 Cherrywood Lane
Greenbelt, MD 20770

RE: *Oakcrest Village Associates, LLC v. Moseley Architects P.C.*
Case No. 8:21-cv-01733-TDC
Defendants Notice of Intent to File a Motion to Dismiss

Dear Judge Chuang:

Pursuant to the Court's *Case Management Order* dated July 12, 2021 (D.I. # 7), Defendant Moseley Architects P.C. ("Moseley"), by its undersigned counsel, submits this letter requesting permission to file a motion to dismiss in response to the *Complaint* (D.I. # 1) filed by Plaintiff Oakcrest Village Associates, LLC ("Oakcrest").

Moseley intends to file a *Motion to Dismiss the Complaint* ("Motion to Dismiss") pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief may be granted, based on the common law doctrine of *res judicata*. Moseley respectfully proposes that permitting Moseley to file the Motion to Dismiss will promote the just, speedy, and inexpensive resolution of this case.

The Complaint should be dismissed pursuant to Rule 12(b)(6), as the claims upon which the Complaint is based have already been adjudicated on the merits in a prior action between Oakcrest and Moseley's predecessor in interest in the Circuit Court for Baltimore, Maryland. *Marrese v. Am. Acad. of Orthopaedic Surgeons*, 470 U.S. 373, 380 (1985); *Bennett v. Garner*, 913 F.3d 436, 440 (4th Cir. 2019); *In re Genesys Data Techs., Inc.*, 204 F.3d 124, 127 (4th Cir. 2000); *Anne Arundel County Bd. of Ed. v. Norville*, 390 Md. 93, 109 (2005); *Colandrea v. Wilde Lake Cnty. Assoc., Inc.*, 361 Md. 371, 389 (2000); *FWB Bank v. Richman*, 354 Md. 472, 492 (1999); *Blades v. Woods*, 338 Md. 475, 478-79 (1995); *Heit v. Stansbury*, 215 Md. App. 550, 566 (2013).

While counsel for both parties have discussed the potential for resolving the claims asserted in the Complaint outside the context of this litigation, those conversations have proven unfruitful to-date.

Accordingly, Defendant Moseley Architects P.C., respectfully requests permission to file its Motion to Dismiss each of the counts contained within the Complaint.



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Respectfully submitted,

MOSELEY ARCHITECTS P.C.

By Counsel,

/s/ Jonathan C. Shoemaker

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